

LAW OFFICE OF JOEL J. THOMAS  
Joel J. Thomas, Esq. ( Calif. SBN 195034)  
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Long Beach, CA 90803  
(562) 430-3848

Attorney for Defendant,  
P.W. Stephens, Inc.

United States District Court  
For the Northern District of California  
San Jose Division

P. W. STEPHENS, INC.

Plaintiff,

vs.

ALEJANDRO NAVA

Defendant,

Case No.: C07-05576 EDL

**P.W. STEPHENS, INC.'S ANSWER  
TO ALEJANDRO NAVE  
COMPLAINT FOR DAMAGES**

Defendant, P.W. Stephens Inc. answering the plaintiff's Complaint, denies,  
and alleges as follows:

**GENERAL DENIAL**

1) This answering defendant denies generally and specifically each  
and every allegation in said unverified Complaint, and the whole thereof, including  
each and every purported cause of action contained therein, and denies that  
plaintiffs sustained damages in any sum or sums, described in the Complaint.

2) Further defendant denies each and every allegations of the complaint and  
demands strict proof. Defendant specifically denies it that they did not pay  
overtime correctly as alleged in the complaint.

**FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Cause of Action)

3) For a first, separate and affirmative defense, this answering defendant alleges plaintiff's unverified Complaint on file herein fails to state facts sufficient to constitute a cause of action against this answering defendant.

**SECOND AFFIRMATIVE DEFENSE**

(Waiver of Condition)

4) If it is determined that this answering defendant failed to perform one or more of the obligations under any contract or agreement, this answering defendant contends that Plaintiffs waived it's right to require such performance by plaintiff's acts or omissions in each instance.

**THIRD AFFIRMATIVE DEFENSE**

(Failure to Mitigate)

5) This answering defendant is informed and believes and thereon alleges that plaintiff and or/their successors failed, refused and neglected to reasonably mitigate damages, which bars or diminishes any recovery herein by plaintiffs.

**FOURTH AFFIRMATIVE DEFENSE**

(Acts of Others)

6) This answering defendant is informed and believes and thereon alleges that it is not legally responsible for the acts and/or omissions of those defendants not named herein.

**FIFTH AFFIRMATIVE DEFENSE**

(Waiver)

7) This answering defendant is informed and believes and thereon alleges that the plaintiffs have engaged in conduct and activity sufficient to constitute a waiver of any action alleged in the unverified Complaint.

**SIXTH AFFIRMATIVE DEFENSE**

(Estoppel)

8) This answering defendant is informed and believes and thereon alleges

1 that the plaintiffs have engaged in conduct and activities with respect to the  
2 contracts, transactions, occurrences and incident which are the subject of the  
3 Complaint, and by reason of said activities and conduct, are estopped from  
4 asserting any claims for damages or seeking any other relief against this answering  
5 defendant.

6 **SEVENTH AFFIRMATIVE DEFENSE**

7 (License)

8 9) This answering defendant is informed and believes and thereon alleges  
9 that defendant had a right to do the acts alleged in the complaint or was authorized  
10 either orally or in writing to do such acts and such license and authorization was  
11 granted to the defendant either expressed or implied by the plaintiff

12 **EIGHTH AFFIRMATIVE DEFENSE**

13 (Statute of limitations)

14 10) Defendant is informed and believes, and on that basis alleges, that the  
15 cause of actions alleged in the complaint are barred by particular limitations and the  
16 provisions of and related Federal statute of limitations.

17 WHEREFORE, this answering defendant request that :

- 18 1) Take nothing by way of their unverified Complaint herein;  
19 2) That this defendant be awarded costs of suit incurred herein; and  
20 3) For such other and further relief as this Court may deem just and proper.

21  
22 DATED: 02/06/08

LAW OFFICE OF JOEL J. THOMAS

23 By:                     /s/                    

24 Joel J. Thomas

25 Attorney for Defendant P.W. STEPHENS,  
26 INC.  
27  
28



PROOF OF SERVICE MAILING LIST

NAVA v. P.W. STEPHENS

CASE NO. : C07-05576 EDL

Counsel for Plaintiff, NAVA

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